IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.2326 OF 2004

Mr.Vishnu Anna Devale
R/o. 71, Shukrawar Peth,
Phaltan, Tal.: Phaltan
Dist.: Satara ... Petitioner

V/s.

1. State of Maharashtra
through Secretary of General
Administration Department
Mantralaya, Mumbai

2. The Collector
Satara ... Respondents

Mr.Uday Warunjikar for Petitioner
Mr.S.R. Nargolkar, AGP, for Respondent Nos.1 and 2

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **FEBRUARY 7, 2005**

ORAL JUDGMENT (PER NISHITA MHATRE, J.):

. The Petitioner seeks a declaration that the Government Resolution dated 1.9.1990 issued by the State of Maharashtra is ultra vires and violative of Article 14 of the Constitution of India as it stipulates that pension is payable to persons who were in service of the erstwhile princely states only if they had completed 10 years of service.

2. The facts in this case are not disputed. The

Petitioner was appointed as a clerk in the Mudhoji High School of the Princely state of Phaltan on 15.8.1945. The Petitioner continued in service till the year 1948 when the princely state of Phaltan merged with the Union of India. Several Government Resolutions were issued from time to time by the State providing for payment of family pension to the employees of the erstwhile princely states. On 10.1.1996, a Government Resolution was issued requiring the applicant for pension to comply with certain conditions, which are as follows:

> 1] The person claiming the pension under the said G.R should have to submit the documents in respect of his services in the Princely State.
>
> 2] The documents in respect of the pension if any sanctioned by the Princely State.
>
> 3] Any pay slip issued by the Princely State or the extract of pay bill.
>
> 4] Any reward or certificate issued by the Princely State for the extra-ordinary work.
>
> 5] The entries from the record of the Princely State showing the services rendered.

3. A Government Resolution of 10.9.1999 was issued providing for the qualifying service for payment of pension to be a minimum of 10 years of service in the erstwhile princely state. The Petitioner, after issuance of the Government Resolution of 10.1.1996, filed an application on 6.1.1997 to the Collector claiming pension. The requisite documents regarding his

service record and salary were also produced by the Petitioner. However, no pension was paid. The Petitioner, therefore, filed an original application before the Maharashtra Administrative Tribunal claiming pension. This application was dismissed on 9.3.2000. The Petitioner has not challenged the order passed by the Maharashtra Administrative Tribunal in this petition but has only claimed that the Government Resolution of 1.9.1999 laying down a precondition of 10 years service with the erstwhile princely state for claiming pension on the basis of Government Resolution is ultra vires the Constitution of India. He urges that the stipulations contained in the Government Resolution of 1996 do not have this additional condition of the employee having been in service for 10 years. Therefore, according to him, the Government Resolution of 1.9.1999 is unsustainable as it is not clarificatory or explanatory as sought to be made out by the Respondents in their affidavit.

4. The Government Resolution of 1999 is in our view only a clarificatory resolution. Although persons eligible for pension have to submit the documents as required under the Government Resolution of 1996 the criterion contained in the Government Resolution of 1999 merely clarifies that such persons who were in continuous service for 10 years with the erstwhile

Princely state could be considered eligible for pension if they had the necessary documents.

5. We see no reason to uphold the challenge in the Petition because the subsequent Government Resolution is merely explanatory in nature and does not violate Article 14 of the Constitution of India as contended on behalf of the Petitioner.

6. Writ Petition is dismissed with no order as to costs.